

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTONNE M. JONES,

Plaintiff,

- against -

ROC-A-FELLA FILMS, INC., LIONS GATE
FILMS, INC., DAMON DASH and
SHAWN CARTER,

Defendants.

07 Civ. 3648 (KNF)(HBP)

DECLARATION OF STEPHEN WAGNER IN SUPPORT OF MOTION FOR FEES

I, Stephen Wagner, declare as follows:

1. I am a member of the Bar of this Court and a shareholder of Cohen Tauber Spievack & Wagner P.C., attorneys for defendants Roc-A-Fella Films, Inc. (“Roc-A-Fella”) and Damon Dash (“Dash,” collectively, “Defendants”). I am fully familiar with all the facts and circumstances hereinafter stated. I submit this declaration in support of Defendants’ application for attorneys’ fees.

2. By order dated August 21, 2007, Magistrate Judge Fox referred this matter to this Court for a settlement conference. This court set the conference for February 21, 2008.

3. On February 14, 2008, in a letter from Mark Tamoshunas, Esq., counsel to

defendant Lions Gate Films, Inc., to Chief U.S. Magistrate Judge Pitman, with copies to all parties, including, without limitation, Ambrose Wotorson Jr., Esq. and Victor A. Dunlop, Esq., the attorneys representing Plaintiff Antonne M. Jones ("Plaintiff's Attorneys"), the parties jointly requested that the settlement conference be adjourned. A true and correct copy of the February 14, 2008 letter is attached as Exhibit A.

4. In an email dated February 14, 2008, Mr. Tamoshunas notified all counsel, including, without limitation, Plaintiff's Attorneys, that the settlement conference was adjourned to April 3, 2008 at 10 a.m. A true and correct copy of the February 14, 2008 email is attached as Exhibit B.

5. Mr. Dash, on behalf of himself and Roc-A-Fella, appeared with counsel Stephen Wagner and Ginnine Fried, both of Cohen Tauber Spievack & Wagner P.C., at the April 3, 2008 conference.

6. Plaintiff and his attorneys failed to appear.

7. I spent 2.5 hours attending the conference, including travel time, at the hourly rate of \$540. I have billed my clients \$1,350 for attending the conference.

8. My colleague Ginnine Fried spent 2.5 hours of time attending the conference, including travel time, at the hourly rate of \$295. I have billed my clients \$737.50 for the cost of Ms. Fried attending the conference.

9. Ms. Fried spent 2.0 hours in the preparation of this Notice of Motion and Motion, for which I have billed my clients \$590.00.


WHEREFORE, I respectfully request, pursuant to number 7 of the Procedures Applicable to Cases Referred to Settlement to Magistrate Judge Pitman, which provides: "If a party fails to come to a settlement conference with all the required persons . . . that party may be

required to reimburse all the other parties for their time and travel expenses,” and the Court's inherent power in awarding fees, *United States v. Seltzer*, 227 F.3d 36 (2d Cir. 2000), that the Court issue an Order requiring Plaintiff and/or its counsel to reimburse Defendants for fees in the amount of \$2,677.50, and for such other and further relief as this Court deems just and proper.

Executed on April 8, 2008, at New York, New York.

I declare under penalties of perjury that the foregoing is true and correct.

By:


Stephen Wagner (SW 2500)